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Thirty Mile crew boss charged in 4 fire deaths

By Maureen O'Hagan, Warren Cornwall and David Bowermaster
Seattle Times staff reporters

In what may be the first case of its kind, federal prosecutors in Spokane yesterday charged a U.S. Forest Service employee with manslaughter and making false statements for his role in the deaths of four firefighters during the infamous Thirty Mile wildfire in north-central Washington.

Ellreese N. Daniels, 46, was the incident commander at the blaze that consumed 9,500 acres of the Okanogan-Wenatchee National Forest during the drought-plagued summer of 2001. According to an 11-count complaint filed in U.S. District Court in Spokane, Daniels was "grossly negligent" in supervising the firefighters — many of them rookies — and later lied to investigators about his actions.

If convicted of manslaughter, Daniels could face six years in prison, though he would likely face much less because he has no criminal record, said Assistant U.S. Attorney Thomas Hopkins.

But Daniels' attorney, Tina Hunt, said the charges are "without merit."

"It is absolutely unfair to blame these deaths on one person and one person alone," she said.

Deadly wildfires: a timeline

Oct. 26, 2006: Five U.S. Forest Service firefighters are killed in the Esperanza fire in Southern California's Jacinto Mountains. The fire burns 40,200 acres and destroys 54 buildings, including 34 houses.

March 12-13, 2006: Wind-driven wildfires consume nearly a million acres of grassland and several hundred structures in the drought-stricken Texas Panhandle. The fires are blamed for at least 11 deaths, four of them in a crash on a smoke-shrouded highway.

Sept. 12, 2004: One firefighter killed and six others injured when the relatively small blaze they were

The charges come after years of criticism and outrage over the fire as families have sought answers for the deaths.

"This is the beginning of accountability," Kathie FitzPatrick of Yakima, whose daughter, Karen, perished in the blaze, said Wednesday.

Governor Christine Gregoire issued a statement saying, "It is my hope that the action taken by federal prosecutors today helps these families find answers."

Disputed orders

The prosecution's court papers describe Daniels as a veteran firefighter who on July 10, 2001, led a group of 14 relative newcomers, exhausted from sleep deprivation, into a box canyon where the growing fire would almost surely overtake them.

fighting in Northern California's rugged Stanislaus National Forest overruns the crew.

Oct. 25, 2003: The Cedar fire in Southern California's Cleveland National Forest (San Diego County) kills 15 people and burns more than 300,000 acres, destroying 2,400 homes and inflicting an estimated \$800 million in damage.

July 23, 2003: Two firefighters die when they are overrun by flames soon after being dropped by helicopter to battle a fast-moving blaze in the Salmon-Challis National Forest in central Idaho.

July 10, 2001: Firefighters Tom Craven, 30; Devin Weaver, 21; Jessica Johnson, 19; and Karen FitzPatrick, 18, die while battling the 9,500-acre Thirty Mile wildfire in a rugged area of the North Cascades.

Source: Seattle Times news researcher David Turim

The blaze, the result of an unattended campfire, was whipped up by steady winds and low humidity. Daniels called for air support, then led his team north, up the one road leading in and out of the canyon.

At Daniels' direction, the crew stopped along the road, which ran parallel to the Chewuch River. But instead of preparing the crew for the worst — that the fire would race over them — Daniels told them the fire would burn around them, court papers allege.

Meanwhile, Daniels watched as several firefighters scrambled up a rocky slope to get a better view of the fire. According to the documents, Daniels later said he ordered the firefighters down from the slope, but surviving crew members disputed that.

That discrepancy is significant, according to charging papers. The heat is more intense on an upward slope, and uneven ground makes using fire shelters difficult. So when the fire raced through and firefighters dived for cover under their shelters, those on the road survived but those who remained on the slope were asphyxiated by superheated air.

"The consensus of experts is that all four deceased firefighters would have survived if they deployed [shelters] on the road near the other crew members," the charging documents allege.

A scapegoat?

Previous investigations have found that numerous safety mistakes were made leading up to the deaths. The Forest Service sought to discipline 11 managers as a result of the findings.

Daniels is still a seasonal employee for the Forest Service, working as a warehouse assistant in East Wenatchee, said Paul Hart, spokesman for the Okanogan and Wenatchee forests.

Hunt, Daniels' lawyer, said that singling out her client for criminal charges "smacks of looking for a scapegoat to me."

She noted, for example, that the federal government is now fighting a lawsuit filed by two people, Paula and Bruce Hagemeyer, who were trapped along with the firefighters.

The Hagemeyers' lawyer, Mariano Morales Jr. of Yakima, said Wednesday that the Forest Service has argued it isn't liable as an agency for injuries suffered by the pair. So criminal charges against a Forest Service worker would undercut that argument, he said.

Unusual move

Certainly, criminal charges against a Forest Service employee in a case like this are highly unusual, if not unprecedented.

Until two years ago, it had never happened before, said Dick Mangan, a retired 30-year Forest Service veteran who heads the International Association of Wildland Fire.

But after the Thirty Mile Fire, a new federal law boosted investigations of forest-fire deaths. And in 2004, federal prosecutors considered criminal charges against a Forest Service supervisor after a fire in Idaho the previous year killed two firefighters. In the end, though, the supervisor struck a deal, agreeing to quit the Forest Service and serve 18 months of federal probation in return for no formal charges being filed, according to press accounts.

Hurt firefighters or save them?

For Mangan, the charges signal a dramatic change for the worse in the way wildfire disasters are handled.

He predicts this will endanger firefighters because it will discourage people from talking openly about accidents for fear of being prosecuted. In fact, Mangan said, it already has happened in investigations relating to a deadly Southern California blaze in the fall of 2006.

But to Ken Weaver of Yakima, whose 21-year-old son, Devin Weaver, was one of the four killed in the Thirty Mile fire, the criminal charges might help make people more likely to follow the rules.

"The ultimate effect is that lives are saved," he said. "This will make the fireline safer."

Ultimately, Weaver said, he'd like to see Forest Service supervisors cited and fined for every violation of safety guidelines. Even so, the charges against Daniels mean the government finally is taking a step in the right direction, he said.

"He's being charged with ignoring all the safety rules in the book and abandoning all common sense," Weaver said. "The culture in the Forest Service is that we'll be safe when we want to and unsafe when we want to because no one has any say about it but us."

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